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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1947

No. 337

THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY, MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY, NATIONAL LIFE INSURANCE COMPANY, PENN MUTUAL LIFE INSURANCE COMPANY, AND PHOENIX MUTUAL LIFE INSURANCE COMPANY (ORIGINAL PLAINTIFFS); AND AETNA LIFE INSURANCE COMPANY, THE PRUDENTIAL LIFE INSURANCE COMPANY OF AMERICA, THE UNION MUTUAL LIFE INSURANCE COMPANY, AND THE UNION LABOR LIFE INSURANCE COMPANY (PLAINTIFFS ADDED BY STIPULATION),

Plaintiffs-Appellants,

vs.

FRANK C. MOORE, COMPTROLLER OF THE STATE OF NEW YORK,

Defendant-Respondent

APPEAL FROM THE COURT OF APPEALS OF THE STATE OF NEW YORK

MOTION TO AFFIRM

MAY IT PLEASE THE COURT:

Now comes the appellee in the above entitled cause, Frank C. Moore, Comptroller of the State of New York, by

his counsel of record, the Attorney-General of the State of New York, and moves that the judgment appealed from be affirmed.

The motion to affirm is made upon the ground that the questions involved in this appeal are not substantial.

The appellee respectfully submits that the decisions set forth and discussed in the unanimous opinion rendered by the Court of Appeals in the instant case and accompanying the judgment appealed from, do well indicate that the questions upon which the decision of the instant cause depends are so unsubstantial as to need no further argument.

The said opinion of the Court of Appeals of the State of New York is reported in 297 New York 1 and is also attached as Exhibit D to appellants' "Statement as to Jurisdiction."

Dated, August 26, 1947.

NATHANIEL L. GOLDSTEIN,
Attorney-General of the
State of New York,
Attorney for Appellee,
The Capitol, Albany, New York.

WENDELL P. BROWN,
Solicitor General;
ABE WAGMAN,
Assistant Attorney-General,
Of Counsel.